

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PATRICK M. ANSON, JR.,

Plaintiff,

v.

KILOLO KIJAKAZI, Acting Commissioner
of Social Security,

Defendant.

8:22CV174

**MEMORANDUM
AND ORDER**

This matter is before the Court on plaintiff Patrick M. Anson, Jr.’s (“Anson”) Motion for Attorney’s Fees (Filing No. 18) under the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412(d). The EAJA authorizes the Court to award “fees and other expenses” to a prevailing party in any civil action “brought by or against the United States,” unless the Court determines the government’s position was “substantially justified or that special circumstances make an award unjust.” *Id.* § 2412(d)(1)(A).

On September 27, 2022, the Court granted an unopposed motion from defendant Kilolo Kijakazi, Acting Commissioner of Social Security (“Commissioner”), to reverse her denial of disability benefits and remand this case for further administrative proceedings. Asserting the Commissioner’s motion demonstrates that her position “was not substantially justified,” Anson requests attorney fees in the amount of \$3,214.71, which consists of 13.7 hours of attorney work at \$234.65 per hour. The Commissioner accedes to Anson’s request for fees (Filing No. 19) but notes it may be subject to offset. *See Astrue v. Ratliff*, 560 U.S. 586, 593 (2010).

After careful review, the Court finds Anson is a prevailing party entitled to an EAJA fee award of \$3,214.71 to be paid by the Social Security Administration. Anson has satisfied the statutory requirements under the EAJA, *see* 28 U.S.C. § 2412(d)(1)(A), and

his attorney-fee request is timely¹ and reasonable. Although the EAJA fee award is payable to Anson, it can be sent to his attorneys as a practical matter. *See Ratliff*, 560 U.S. at 589-90.

Based on the foregoing,

IT IS ORDERED:

1. Plaintiff Patrick M. Anson, Jr.'s motion for attorney fees (Filing No. 18) under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), is granted.
2. Anson is awarded attorney fees in the amount of \$3,214.71.
3. The Social Security Administration shall make the fee award payable to Anson and deliver the payment to the Kappelman Law Firm at its address of record.
4. A separate judgment will issue.

Dated this 3rd day of January 2023.

BY THE COURT:



Robert F. Rossiter, Jr.
Chief United States District Judge

¹A prevailing party requesting an EAJA fee award based on a remand under sentence four of 42 U.S.C. § 405(g) must apply no later than thirty days after the judgment has been entered and the appeal period has run such that the judgment is no longer appealable. *See Pottsmith v. Barnhart*, 306 F.3d 526, 527-28 (8th Cir. 2002); *see also Shalala v. Schaefer*, 509 U.S. 292, 302 (1993); *Melkonyan v. Sullivan*, 501 U.S. 89, 94-97 (1991).